



PATENT
Attorney Docket No. 204863
Client Reference No. 150788.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Shy Cohen

Application No. 09/676,924

Art Unit: 2142

Examiner: Nguyen, Hai V

Filed: October 20, 2000

For: Bi-Directional HTTP-Based Reliable
Messaging Protocol and System Utilizing
Same

DECLARATION UNDER 37 C.F.R. § 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

1. I am the sole inventor of the above-identified application, and have been employed by the assignee of the above-identified application, Microsoft Corporation, at all times relevant hereto.

2. I have reviewed the Official Action mailed January 29, 2004, wherein the Examiner has relied upon U.S. Patent No. 6,631,416 to Bendinelli et al. under 35 U.S.C. § 102(e) to reject claims 1-19 of the present application. I have also reviewed the Bendinelli et al. '416 patent and note that it carries a filing date of April 11, 2001, with priority claimed from a provisional application No. 60/196,297 filed on April 12, 2000, and an issue date of October 7, 2003. I have been advised by our patent attorney that a rejection under 35 U.S.C. § 102(e) can only be sustained in this case if the invention was described in "... (2) a patent granted on an

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application for patent by another filed in the United States before the invention by the Applicant for patent..."(emphasis added). I therefore make this declaration under 37 C.F.R. 1.131 to swear behind the earliest filing date upon which the Bendinelli et al. '416 patent can rely, to wit April 12, 2000, and to establish my diligence from a time just prior to this filing date until the filing date of my non-provisional application for patent on October 2, 2000.

3. At a time commencing prior to April 12, 2000, I began working on the bi-directional HTTP-based reliable messaging protocol and a system utilizing same that is the subject of the present application. Indeed, a complete conception of the invention described and claimed in the present application took place at a time prior to April 12, 2000, as evidenced by the document entitled "Microsoft Patent Predisclosure Document," a copy of which is included herewith as Attachment A. While the copy of the Predisclosure Document included in Attachment A has the date of the document removed therefrom, I declare that this date is prior to the filing date of the Bendinelli et al. '416 patent, to wit prior to April 12, 2000.

4. Once the internal Patent Department review of the predisclosure document was complete, a patent docket file was opened and a patent docket number was assigned on March 9, 2000, as evidenced by the internal Patent Department docket system printout attached as Attachment B. The Patent Department then chose our patent attorney on March 17, 2000. (See Attachment B) Travel arrangements were made, and our patent attorney attended a disclosure meeting on April 26, 2000, at which the present invention was discussed to enable our patent attorney to draft a patent application for the management model of the present application. *Id.*

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Once the disclosure meeting was complete, our patent attorney drafted a summary of the disclosure meeting for our review on May 4, 2000. *Id.*

5. Our patent attorney then set forth to draft a non-provisional patent application, a first draft of which was delivered for our review on July 20, 2000. *Id.* I reviewed the first draft of the patent application and provided our comments to our patent attorney on August 15, 2000. *Id.* A second draft of the patent application was then provided to us from our patent attorney on September 8, 2000, which incorporated our comments from the first draft review. I then reviewed this second draft of the application and provided our comments to our patent attorney on September 10, 2000. *Id.* A final draft of the patent application incorporating all of our changes was provided to us from our patent attorney on September 15, 2000. *Id.* I reviewed this final draft of the patent application by September 25, 2000. *Id.* A patent attorney from the Microsoft Patent Department also reviewed this final draft patent application and approved the application for filing on September 25, 2000. *Id.* The application to be filed along with the formal papers for our signature were provided by our patent attorney on September 25, 2000. *Id.*

6. I also conducted a final review of the patent application, and executed the formal documents on September 26, 2000. *Id.* This application and formal documents were then forwarded to our patent attorney, and were filed with the United States Patent and Trademark Office on October 2, 2000. *Id.*

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9. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

4/26/2004
Date

Shy
Shy Cohen